

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

GARY F. LEMBERGER,

Petitioner,

v.

CHRISTINE SUTER,

Respondent.

ORDER

23-cv-886-jdp

Petitioner Gary F. Lemberger, proceeding without counsel, sought relief under U.S.C. § 2254 following convictions for operating while intoxicated, operating while revoked, and ignition interlock tampering. *See* Dkt. 1; Dkt. 2; Dkt. 4. Columbia County Circuit Court Case No. 2021CF599. Lemberger's petition didn't conform with habeas pleading rules, so I ordered him to file an amended petition to fix that problem by September 9, 2024. Dkt. 7. The court extended the time to file an amended petition to September 23, 2024. Dkt. 9. Lemberger hasn't filed an amended petition or sought an additional extension of time to complete that task. Because Lemberger failed to comply with my order, I will dismiss this case without prejudice. I note that Lemberger's direct appeal is pending, so dismissal of this case will not result in a future habeas petition being dismissed as untimely. *See* 28 U.S.C. § 2244(d)(1)(A) (providing that a judgment of conviction becomes final for statute of limitations purposes when direct review of the judgment ends or when the time for seeking direct review ends).

ORDER

IT IS ORDERED that:

1. This case is DISMISSED without prejudice for failure to comply with a court order.
2. The clerk of court is directed to enter judgment and close the case.

Entered October 7, 2024.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge